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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12

13  
14 **JOSEPH DEONN HORNE,**

Petitioner,

15  
16 **v.**

17 **ROBERT HOREL, Warden,**

18 Respondent.  
19

C 07-4592 SBA (PR)

**ANSWER TO ORDER TO SHOW  
CAUSE**

20 Respondent provides this answer to the Order to Show Cause why the petition for writ of  
21 habeas corpus should not be granted.

22 **I.**  
23 **CUSTODY**

24 Petitioner is lawfully in the custody of the Warden of North Kern State Prison, pursuant  
25 to a valid judgment of conviction in the Superior Court of the State of California in and for the  
26 County of Monterey, case number SS030908. On April 26, 2005, the trial court sentenced petitioner  
27 to prison for the term of life without parole; three consecutive indeterminate life terms; a consecutive  
28 determinate term of three years; plus a four-year enhancement.

**II.****GENERAL AND SPECIFIC DENIALS**

Respondent denies that the state court's rulings were based on an unreasonable determination of fact or were contrary to or involved an unreasonable application of clearly established United States Supreme Court law. Respondent specifically denies that petitioner was denied effective assistance of trial counsel during petitioner's cross-examination; specifically denies petitioner was denied effective assistance of counsel when his trial counsel did not present petitioner's direct examination in the form of questions and answers; and specifically denies that petitioner was denied effective assistance of counsel "on the ground that the enhancement of premeditation was not pleaded as required."

**III.****PROCEDURAL ISSUES**

The claims raised in the first amended petition are exhausted. The first amended petition is timely within the meaning of 28 U.S.C. § 2244(d).

**IV.****LODGED DOCUMENTS**

Respondent has lodged concurrently with this answer the following exhibits: (1) Clerk's Transcript (5 volumes); (2) Reporter's Transcript (25 volumes); (3) Appellant's Opening Brief; (4) Respondent's Brief; (5) Appellant's Reply Brief; (6) Petition for Review, including Appendix A, Opinion by California Court of Appeal; (7) California Supreme Court Order denying review; (8) Petition for Writ of Habeas Corpus filed in the California Supreme Court; (9) California Supreme Court Order denying the Petition for Writ of Habeas Corpus.

**V.****INCORPORATION BY REFERENCE**

Respondent hereby incorporates by reference the accompanying memorandum of points and authorities in support of this answer.

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**VI.**

**CONCLUSION**

Respondent respectfully requests that the petition for writ of habeas corpus be denied.

Dated: August 1, 2008

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of the State of California

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Horne v. Horel**

No.: **C 07-4592 SBA (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 1, 2008, I served the attached **ANSWER TO ORDER TO SHOW CAUSE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER TO ORDER TO SHOW CAUSE; NOTICE OF LODGING EXHIBITS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Joseph Deonn Horne  
V-84328  
Ken Valley State Prison  
P.O. Box 5102  
Delano, CA 93216

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 1, 2008, at San Francisco, California.

\_\_\_\_\_  
Nelly Guerrero  
Declarant

\_\_\_\_\_  
/S/ Nelly Guerrero  
Signature